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Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

PIROUZ SEDAGHATY,

Defendant.

CR 05-60008 HO

**DEFENDANT'S INITIAL POTENTIAL
WITNESS LIST AND MOTION FOR
FURTHER DISCLOSURE FROM THE
GOVERNMENT**

Defendant, Pirouz Sedaghaty, by and through his attorneys, Lawrence Matasar and Federal Public Defender Steven T. Wax, hereby submits the following list of potential witnesses. Mr. Sedaghaty cautions the government in its trial preparation that, at this time, this is only a potential list. He has not yet concluded his investigation and anticipates that there is a reasonable possibility that additional witnesses will be added and that witnesses whose names are on the list will not be called. He may also call no witnesses. As he makes decisions on additions and deletions before trial, he will advise government counsel. To the extent strategic decisions are made about the scope of the defense case during trial, Mr. Sedaghaty will make disclosures as appropriate consistent with his constitutional rights.

Mr. Sedaghaty further notes that it is his understanding that the government has only provided on its witness list people it intends to call in its “case in chief.” What constitutes a defendant’s “case in chief,” is unclear. In some cases it could involve alibi or affirmative defense evidence. In most criminal cases, including this one, much of what the defense does is rebuttal or impeachment of the government’s case. Thus, much of what Mr. Sedaghaty is providing here is in the nature of rebuttal and impeachment. As a result, the government should be directed at this time to provide the names of witnesses it has identified and is contemplating subpoenaing for a rebuttal case. Through this pleading, Mr. Sedaghaty seeks an order directing the government to do so.

An order requiring the government to provide its anticipated rebuttal and impeachment evidence is necessary due to the limitations on the Court’s authority to require the defendant to provide any witness list. *See United States v. Hicks*, 103 F.3d

837, 841 (9th Cir. 1996), *United States v. W.R. Grace*, 526 F.3d 499 (9th Cir. 2008) (overruled that portion of *Hicks* holding that the Court could not order the government to disclose witness lists). In light of *Hicks* and *Grace*, *Wardius v. Oregon*, 412 U.S. 470 (1973) (a statute that does not provide for reciprocal discovery denies due process) requires that the government be required to disclose rebuttal and impeachment witness lists as well. Any lesser requirement imposed by the Court, in the face of its order to the defense, violates due process and defendant's right to counsel.

By this pleading, Mr. Sedaghaty also provides notice pursuant to 28 C.F.R. 16.23 that he is seeking the testimony of two FBI agents, Joseph Boyer and David Carroll, through the service of compulsory process. Mr. Sedaghaty has not, at this point, prepared a subpoena. He requests that the government advise him whether subpoenas will be necessary or whether the government will ensure the presence of the witnesses at trial. Counsel anticipates that Mr. Boyer will be asked about his interview of Mr. Sedaghaty on September 15, 2001, and any other investigative actions he took with respect to Mr. Sedaghaty and Al Haramain. Mr. Carroll will be asked about his meetings with Mr. Sedaghaty, his involvement in the investigation of this case, and his investigation of the intrusions into Mr. Sedaghaty's bank account in the late summer and fall of 2001.

POTENTIAL WITNESS	TESTIMONY
Robert Young	Expert witness on computer forensics
Jeff Cone	Expert witness on accounting issues and data recovery
Cathy Matthews	Expert witness on accounting and work of Mr. Wilcox
Patrick Lang	Expert witness on terrorism, mujihadeen, Chechnya, Middle Eastern, and intelligence issues

Michael Bean	Expert witness on computer forensic work
Charitable Tax Expert (to be determined)	Expert witness on charitable tax laws and IRS form 990
Islamic Expert (to be determined)	Expert witness on Islam
Expert Witness on CMIR matters (to be determined)	Discuss CMIR reporting requirements and the real world
FBI Agent Joseph Boyer	September 15, 2001, interview with Mr. Sedaghaty
FBI David Carroll	Testify to meetings with Mr. Sedaghaty and his involvement in the investigation of this case
Helen Moore	Bank transactions
Federal Defender Staff (to be determined)	Investigation, computer work, prisoner letter review and analysis, video review and analysis, surveillance
David Rodgers	Observations at Al Haramain, Ashland, Oregon and Saudi Arabia and Koran Foundation and willfulness
Rob Brown	Observations at Al Haramain, Ashland, Oregon and Koran Foundation and willfulness
Obdi Guled	Observations at Al Haramain, Ashland, Oregon and willfulness
George Arnold	Willfulness
Caren Caldwell	Willfulness
Ernest Ettlich	Willfulness
Jeff Golden	Willfulness
Carol Hwoschinsky	Willfulness
Mary Ann Jones	Willfulness
Rabbi David Zaslow	Willfulness
Rabbi Marc Sirinsky	Willfulness
Nabil Taha	Willfulness
Majdi Zaky	Willfulness

Witnesses from Springfield, Missouri (to be determined)	Willfulness
Recipients and Typists of various emails and letters (to be determined)	Preparation, sending, and receipt of emails and letters

RESPECTFULLY SUBMITTED this 24th day of March, 2010.

/s/ Steven T. Wax

Steven T. Wax
Federal Public Defender

/s/ Lawrence H. Matasar

Lawrence H. Matasar